

SECURITY IN A FREE SOCIETY

First Draft, March 23, 1963

Free peoples everywhere abhor government secrecy just as nature abhors a vacuum. There is something sinister and dangerous, they feel, when governments "shroud" their activities. It may be an entering wedge for the establishment of an autocratic form of rule, a cover-up for their mistakes.

Hence it is difficult to persuade free people that it may be in the national interest, at times, to keep certain matters confidential, and that their freedoms may eventually be endangered if we talk too much and too soon about our national defense measures and delicate diplomatic negotiations. After all, what a government or the press tells the people, it also is telling to all its foes. And what good does it do to spend millions to protect ourselves against espionage if either government or the press give away all our secrets. And on balance I feel that government is the worst offender, as you will

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see.

Our founding fathers put the guaranty of freedom of the press in our Bill of Rights, and it became the first amendment to the Constitution - "Congress shall make no law ... abridging the freedoms of speech or of the press". As a result of this constitutional safeguard, it has generally been concluded that although we have a whole series of espionage laws, we could not enact Federal legislation comparable to that in effect in another great democracy, Great Britain, known as "The Official Secrets Act", providing penalties for the unauthorized disclosure of certain specified and classified information. This does not mean that we are helpless to do anything to protect ourselves. Out of a long experience of deep frustration in this field, I still have my hopes that something can be done and propose to make certain suggestions.

Anyone working in our own intelligence organizations in this country should realize, however, ~~as one of the facts of his life~~ that it is necessary to plan with care and skill if he is to succeed in keeping his activities secret. In fact, in my own experience in planning intelligence operations,

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I would always consider at the outset, first how the operation could be kept secret from the opponent and, second, how it could be kept from the press. Often the order of priority of danger is reversed. I don't expect to change all this as it is one of the facts of life for the intelligence officer in a free society.

But before taking up our own security problems and the closely related issue of the

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freedom of the press, I wish to discuss briefly the security measures which are in effect in Communist countries, particularly the Soviet, and the measures taken by our chief antagonists to protect their own security. For there are two sides to the security problem -- the one is the security shield put up by the enemy, which, as I have already emphasized, we must find a way of penetrating if we are to obtain the information essential to our national defense. The second is the protection of our own security so as to prevent the enemy from learning our secrets and thus be able the better to prepare his military defense and offense and to penetrate our diplomatic moves and defeat our intelligence efforts.

In discussing the techniques of obtaining intelligence, and in developing our counterintelligence, we have already dealt briefly with the protective measures of the Iron and Bamboo curtains, extending roughly from the Elbe River in the heart of Europe through the USSR and Communist China to northern Viet Nam and the China Sea. Here there is no freedom of the press, there is no freedom of speech, security violations or indiscretions are rare and generally are not allowed to see the light

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of day. And within this great land mass there are "denied areas", out of bounds to all foreigners and even to most Soviet travellers. Within these areas the Soviet have been conducting their nuclear and missile testing and much of their highly classified military preparations.

It is interesting to contrast these areas with Cape Canaveral, for example, where before the public and the world press, including the Soviet press, we do the major part of our own missile testing.

In the Soviet Union and Communist China every foreigner is prima facie a spy and is watched and controlled as such. It is not safe for any foreigner to talk freely in any hotel room and he must be very careful in his dealings with the Soviet citizens who "innocently" engage him in conversation on their streets or in their restaurants. Furthermore, the Soviet people are warned against foreigners and when they send their missions abroad there is generally attached to each delegation a member of the KGB to see that they behave themselves discreetly in foreign countries.

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Moreover, they boast to us of the great advantage they have over us because of the effectiveness of their security measures and they have, so far, refused to enter into international agreements for an "inspected" disarmament, claiming that all of our proposals for inspection are disguised measures of espionage. They rejected, out of hand, President Eisenhower's proposal for a mutual "open skies" inspection program at the Geneva Conference in 1955 and they have consistently opposed each and every measure which they feel could interfere with maintaining the complete secrecy of their military and political preparations to "bury" us under the cloak of co-existence.

As we have seen, our intelligence has not been helpless in the face of these measures. I have described earlier the success of the U-2 in penetrating "denied" areas and obtaining invaluable information on their progress in the field of missilery, nuclear development, new types of aircraft, submarines and the like. In addition, they have not been able to carry on their foreign activities in the fields of diplomacy and espionage without sending

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their agents abroad, exposing them to foreign influences and free societies which has resulted in, for them, many disastrous cases where defectors, whom we prefer to call "volunteers", have come over to us, breached their security measures and given us a glimpse, and often more than a glimpse, of what is going on in the secret areas of their military preparations.

Nonetheless, there is no doubt that they can maintain a far higher degree of secrecy and security than can we.

The question is whether we can do better than we are doing, consistent with the maintenance of our free way of life and a free press, and whether, on balance, it is worthwhile to try to limit our indiscretions. I am persuaded that it is worthwhile and that we should study the problem and see where and how we can improve our security, particularly in the field of military disclosures and intelligence operations.

Basically there are three areas to be considered, first, the "give away", what is published with official approval; second, the contrived leak,

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what is secretly passed out by disgruntled or dissatisfied government officials who dislike the existing, or proposed, policy and feel that they must defend the policies or the position of their "service" against the encroachment of a rival service or the exponents of a conflicting policy; third, the "careless leaks", we talk too much, we want to show that we are "in on the know" and, as in the second category, the leakers are protected by the "non-disclosure of sources" principle of the press which means that "leakers" of category two or three, far from being punished are rarely found out or findable under present procedures.

I have mentioned the recent disclosures of Pawel Monat, a Polish intelligence officer trained by Communist experts to carry on espionage in the United States. He was a high official of the Polish intelligence service before he was assigned to Washington in 1955 as Military Attache. About three years later, in the spring of 1958, Monat returned to Poland, and after a year of further intelligence work there, and reflection on what he had experienced in the USA, he decided to abandon



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his work and Communism and, in 1959, he sought asylum in the United States through our embassy in Vienna. Here is a brief sketch of what he has to say about espionage in the United States in his book "Spy in the U.S." (Harper & Row, 1961):

"America", he says, "is a delightful country in which to carry out espionage. As a country it is rather ingenious about keeping its secrets. \*\*\* One of the weakest links in the nation's security \*\*\* is the yearning friendliness of her people. \*\*\* They crave public recognition."

"I was able", Monat says, "to find one American after another who seemed impelled -- after a drink or two -- to tell me things he might never have told his own wife."

But it was obviously in the public print that Monat found his most precious sources. "Americans", he said, "are not only careless and loquacious in their speech, they also give away far more than is good for them in public print."

Then he goes on to outline what he was able to get from one issue of Aviation Weekly -- the "24th Annual Inventory of Air Power" -- 372 pages of it. "It would", he said, "have taken us months of

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work and thousands of dollars to agents to ferret out the facts one by one \*\*\* The magazine handed it all to us on a silver platter."


He paid tribute also to the publication Missiles and Rockets and very particularly to what he referred to as "house organs" of the Army, Navy, Air Force and Marines which fight "the battle of inter-service rivalry" in print, and to the stream of manuals and reports published by each of the services. Finally, he emphasized the value to the Communist intelligence effort of "Congressional hearings on the defense budget", which he listed as one of his best sources.

"It must be extremely difficult", Monat adds, "for the U. S. military to try to defend the nation and its freedoms when the very sinews of its defenses are being exposed, day by day, to anybody who can read".

In all this, Monat pointed out, the Soviet were running the show - - the Polish intelligence was doing the leg work as their activities in acquiring all this vast amount of documentation were less likely

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to arouse suspicion than if it were done by the Soviet themselves.

Douglass Cater of The Reporter magazine, in his book "The Fourth Branch of Government" (published in 1959) and in an article in The Reporter (July 6, 1961) entitled "News and the Nation's Security" has dealt with this problem of the intelligence "give away" exhaustively and fairly. Describing in his book the frustrations of both the Truman and the Eisenhower administrations, he writes: "President Truman once claimed that '95% of our secret information has been published by newspapers and slick magazines' and argued that newsmen should withhold some information even when it had been made available to them by authorized government sources." This, I feel, is too much to ask of any newspaper man. 

Cater then goes on to refer to a press conference held by President Eisenhower in 1955 in which the President said: "for some two years and three months I have been plagued by inexplicable undiscovered leaks in this Government" and added that "technical military secrets" of value to

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Russia had been made public. Cater also refers to a statement by Secretary of Defense Charles E. Wilson in which he "estimated that this country was giving away military secrets to the Soviets that would be worth hundreds of millions of dollars if we could learn the same type from them."

I quote a couple of paragraphs from Cater's two chapters on Intelligence and Counter-intelligence, which read as follows:

"To buttress the argument of American vulnerability, advocates of security tell of a Pentagon report on espionage during the Second World War known as 'The Case of the Scholar Spy'. It concerns a German, sent to the United States in 1940, who instead of pursuing more spylike occupations spent much of his time studying the New York Times Index and the Readers' Guide to Periodical Literature. With this assistance, he collected several trunkfuls of data culled from major national publications. Returning to Germany in 1941, he prepared a report on 'United States Air Armament' which ultimately fell into the hands of American intelligence agents. He had predicted American military aircraft production for the years 1941-1943 more accurately than had William S. Knudsen and T.P. Wright of the U. S. War Production Board.

"A more contemporary horror story concerns an American engineer, untrained in intelligence methods, who decided to learn what he could about the U.S. guided missile program while waiting for government security clearance. By diligent reading in his public library, he compiled a forty-five page report giving

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information on our arsenal of missiles -- name, model designation, manufacturer, guidance system, method of propulsion, length, diameter, range and altitudes. The report was so accurate that it was promptly classified."

The intelligence community has been well aware of this problem and Bedell Smith, when he was Director, was so disturbed by the situation that he decided to make a test himself. He co-opted the services of a group of able and qualified academicians from one of our large universities for some summer work. He asked them to examine open publications, news articles, hearings of the Congress, government releases, monographs, speeches and the like, in order to determine what kind of estimate of U.S. military capabilities the Soviets could put together from unclassified sources. Their conclusions indicated that in a few weeks of work by a task force on the open literature our opponents could acquire a very good general idea of our order of battle. In fact, as I recall, the findings of the university analysts were circulated to President Truman and to other policy makers at the highest level. They were deemed to be so accurate that the extra copies were ordered

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destroyed and the few copies that were retained were given a high classification.

As this account indicates, our primary problem today is not so much what the Soviet secures in this country by espionage -- since I believe that, by and large, through J. Edgar Hoover and the F.B.I., we have a growingly effective system of domestic counterespionage. It is rather what we make available to anyone, including the Soviet, who systematically follows the information which we make publicly available. This comes out through published Congressional hearings, through the press, through technical journals, and through the carrying on of so many of our tests and experiments in areas open to any observers, including, of course, foreign agents. Great in size as this country is, it is still not a very good place in which to hide such operations. While in retaliation for the action of the Soviet for setting up "denied" areas, out of bounds for all, including Soviet citizens, except those specifically permitted to enter, we have set up so-called "forbidden areas". Except for certain highly classified nuclear and military installations, these areas are much of

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a farce as the Soviet has little difficulty in sending their agents or "friends" to these areas. It is mainly a measure of reprisal for the Soviet action and would, I assume, willingly be abandoned if the Soviet would abandon their "denied" areas. Our primary problem is, therefore, the give-away element of our society even more than that of espionage or of the leaks and indiscretions which have caused so much heartburn and which I will discuss later.

Is there any way to stop the give-away? One large and important sector of this is within the control of the government and the Congress: That is, what the Executive branch of government itself publishes or allows to be published and the results of Congressional hearings and investigations.

In this field there is certainly evidence of influential Congressional sentiment in favor of such a move. On March 7, 1963, Representative George Mahon, a highly respected member of the Congress and Chairman of the House Defense Appropriation subcommittee, in a House speech, demanded an end to what he said was "outrageous and intolerable damage to the Government's intelligence effort". (New York Times Western Edition, March 8, 1963) "The President,

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the Vice President, and the Speaker of the House should", he suggested, "undertake to 'coordinate a course of action for the purpose of halting the rapid erosion of our national intelligence effort.

"There is an intelligence gap \*\*\* in the intelligence of those who are daily revealing the secrets of the intelligence operations of the United States Government. \*\*\* Officials in Moscow, Peking and Havana must applaud our stupidity in announcing publicly facts which they would gladly spend huge sums of money endeavoring to obtain. Responsibility on our part is urgently required."

A year earlier, on February 12, 1962, (see Congressional Record, p. 2005, of that date) Senator Howard W. Cannon (Dem. of Nevada) said:

"...one of the most challenging problems we face as a Nation in the cold war is to prevent disclosure of vital military information to our Communist enemies. This problem has afflicted three administrations through the years since the close of World War II. The present administration faces the problem today to a degree as severe as that which faced the administrations of Presidents Harry S. Truman and Dwight Eisenhower, ore more severe.

" \* \* \* The whole situation of disclosure of military information needs a thorough examination at the highest level, with a view to



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tightening security policy, where necessary, and permitting public disclosures, when possible.

"I should like to see the Department of Defense assign the highest priority to such a review; and I feel certain that Congress and the public would welcome a policy which would result in making the work of foreign agents more difficult, rather than easier.

"I hope that in the future our enemies will be unable to purchase for the sum of \$1, or at any price, information such as that contained in the Budget and numerous other publications."

I, of course, recognize that in connection with appropriations and other legislation, the Congress and its committees need to receive a substantial amount of classified information from ~~the~~ Executive. Does it necessarily follow that this need be published in great detail? It is often the intimate and technical details that are the most valuable to the potential enemy and of little interest to the public. I question whether, with respect to these technical details, there is a public "need to know".

It is also often said that Congress can't keep a secret. Past history belies this. The Manhattan Project, through which the atomic bomb was developed <sup>and</sup> billions of public funds spent, was a

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well-kept secret in a vital area of our national defense except for espionage -- Klaus Fuchs and the atomic spies. This was a windfall for the enemy that befell us in part as a result of security failures by our allies and in part because of the complex nature of the international problems of the day where some benighted and misguided people felt that feeding this information to the Soviet was helping in the defeat of Hitler. Such an issue, which created schizophrenia in those days, is fortunately no longer with us.

But the reader may object that secrets can be kept in war time but not under "mere" cold war conditions. From almost 10 years of experience in dealing with the Congress, I have found in my dealings with the subcommittees for the CIA, of the Armed Services committees of the House and Senate and the Appropriation committees of the two houses, that secrets could be kept and the needs of our legislative bodies met. In fact, I do not know of a single case of indiscretion that has resulted from telling these committees the most intimate

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details of CIA activities, and that included the secret of the U-2 plane, which was known to the Congressional committees and not a word of it ever leaked. On this point I have already given you Rep. Clarence Cannon's report to the House of Representatives of May 15, 1960. It is true, of course, that it is more difficult to preserve secrecy on matters which have to go before the entire Congress and receive their vote of approval. But this does not necessarily have to include all of the intimate details that may have to be disclosed to certain congressional committees by the Department of Defense in connection with its exhaustive budget presentations.

But even if there are Congressional leaks, these are often garbled or incomplete -- not what one gets from having hundreds of pages of details in the transcript of testimony of Defense or State Department officials. Further, if there are leaks, the enemy is never quite sure of the full facts. He cannot rely on them. He would need to back them up with hard intelligence.

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I would conclude that if this whole subject matter were discussed frankly and fully between the Executive departments and the Congress, a method could be found for preventing the flow to hostile quarters of a major part of the information which they now obtain. There would still be a substantial trickle, to be sure, but not the great flood of information which is now available. Is this not worth exploring?

A more difficult area is that of the press, periodicals and particularly service and technical journals. I recall the days when the intelligence community was perfecting plans for various technical devices to monitor Soviet missile testing and space operations. The technical journals exerted themselves to give the American public, and hence the Soviet Union, the details of radar screens and the like, which for geographic reasons to be effective had to be placed on the territory of friendly countries close to the Soviet Union. These countries were quite willing to cooperate as long as secrecy could be preserved. This whole vital operation was threatened by public disclosure, largely through our own technical journals, to the great embarrassment of our

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friends who were cooperating and whose position vis-a-vis the Soviet was complicated by the publication of speculations and rumors. Except for a small number of technically-minded people, such disclosures added little to the welfare or happiness or even to the knowledge of the American people. Certainly this type of information did not fall in the "need to know" category for the American public.

Under the British system -- and quite apart from the "Official Secrets Act" -- such military intelligence operations would have been covered and to a large extent protected by a system which the British put into effect fifty years ago whereby, on a voluntary basis, the press cooperates with the government to prevent compromise of military secrets. This is known as the "D-Notice System" which I shall mention in a moment.

Undoubtedly it is of the greatest importance in this nuclear-missile age to keep the American people informed about our general military position in the world in ample detail. We should

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have an informed public opinion, backed up with hard facts, authoritatively presented, of our stance vis-a-vis the Soviet military power. There has been at times too much talk about bomber and missile gaps and the like. Deputy Secretary of Defense, <sup>Gulpatrick</sup> in his clear statement on \_\_\_\_\_, did us all a real service in this respect. What we don't really require is detailed information where every hardened missile site is located, exactly how many bombers or fighters we will have, or the details of their performance. Personally, I am convinced that at no time has our military position been inferior to that of the Soviet. It is well that our people should know that and the Soviet government, too -- but this does not mean that we need all that comes out today.

In addition to the amount of information which is given to the public and hence to the enemy, through what our government publishes and makes available in this country, we have the perennial problem of "leaks". Basically, as I have indicated, these leaks are of two kinds. There is, first of all, the "contrived leak", the name I give to the spilling of information, without the authority to do

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so, by personnel in various government departments in order to protect what they consider to be the interests of their service or their department or agency, which they feel is being encroached upon by a rival service or by competitive programs, military or political. This has occurred most often in the Defense Department and at times in the State Department. Here there have been cases where subordinate officers felt that their particular service or the policy which it is promoting was being unfairly handled by the press or even by higher officials of government because "all" the facts were not available to the press and public. It is, in effect, an appeal by subordinates, over the heads of superiors, to public opinion. This occurred, notably and recently, in connection with the transfer to the Air Force from the Army of major responsibility in the whole field of strategic missiles. At times also, information regarding State Department policies have been leaked by subordinates who disapproved of what was going on or by other agencies, generally the military, where there have been differences from State Department policy.

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Douglass Cater here cites a particularly disturbing leak of a private memorandum written by Secretary of State Rusk to Secretary of Defense McNamara, according to which Rusk proposed that even "massive Soviet attacks on Europe should be met with conventional weapons". The story, Cater reports, "had not been based on the memorandum directly, only on an 'interpretation' of it, supplied by someone in the Air Force who was obviously hostile to the Secretary of State's position". He adds: "It took an estimated one thousand man-hours of investigation before the Air Force general suspected of leaking the Rusk memorandum story could be exiled to Maxwell Field, Alabama.

Then, of course, there are other leaks that are due not to malice or plan but merely because we talk too much and the astute reporter, by questioning enough people, is often able to put together the true story of highly classified developments or programs in the making. All this is hard to deal with because the astute reporters, who are directly or indirectly the beneficiaries of such leaks, refuse to disclose the sources and it becomes almost



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impossible to obtain conclusive evidence as to who the guilty party, or parties, may be. <sup>H</sup> During my eleven years of service with the Central Intelligence Agency I have attended scores of meetings at the highest level of government during three administrations, where the following scene has been enacted. It has been quite the same whether the administration has been Republican or Democratic. A high official of government, and often the very highest, would come into the meeting brandishing a newspaper article and saying something like this -- (and here, for reasons of propriety, I shall modify and temper the actual words used because they would generally be unprintable) -- "Who is the critter who leaked this secret of ours? It was only a couple of days ago, here around this table, that we, a dozen of us, reached this secret decision and here it is all out in the press for our enemy's edification and our own discomfort. This time we must find out who this "leaking" critter is and tie him to the nearest lamp post so that the fear of the Lord and of the law will stop these leaks. We can't run a government on this basis any more. This thing must stop. Investigate and report/<sup>and</sup>this time get us some results. I

don't propose to tolerate this sort of thing in this administration any further."

And then the wheels start to move. A committee on security whips into action; the F.B.I. may be called in if it is surmised that a violation of a statute is involved. The wheels turn and in due course a report is made. The report would run somewhat as follows:

The particular decision of government which leaked was set down in a Secret or Top Secret memorandum of which, initially, there were, let us say, a dozen copies made for distribution to the various departments, agencies and bureaus of government which might be involved, on a strict "need to know" basis. Several hundred people then had access to this memorandum, which in most cases would have been again reproduced in many additional copies and sent to various interested offices for appropriate action. Also messages might have been sent to officials in various parts of the world where action might be required. When you have concluded your investigation you generally find that anywhere from 500 to 1,000 people might have seen the offending document; or heard of its content

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and have talked about it to X, Y and Z. No one will ever admit a violation of security and no newspaper man or publicist will ever give away a source of information. It is a part of the unwritten code not to do so.

After a few weeks the investigation is closed and the verdict is that the offense has been committed by a person or persons unknown and undetectable. Somewhere in the course of this proceeding the Director of Central Intelligence is generally reminded that the law setting up the C.I.A. provides that it shall be the duty of the Director of Central Intelligence to "protect intelligence sources and methods from unauthorized disclosure". That official is then asked what he is doing to carry out the mandate of law.

His reply generally is that the law has given him no investigative authority outside of his own agency and in fact has made it expressly mandatory that he shall exercise no internal security functions. Furthermore, this particular provision of the law, as the history of the legislation shows, was primarily intended to place upon the Director

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of Central Intelligence responsibility to see to the security of his own operations. I have to admit, and do so with a mixture of regret and sadness, that during eleven years of service in the C.I.A. I did not succeed in making much progress in finding an acceptable and workable formula for tightening up our governmental machinery or slowing down the tempo of frustrating leaks of sensitive information of value to a potential enemy.

I do not admit, however, that it is impossible to do anything to improve the situation and I have felt that a frank discussion of the problem rather than an attempt to force through legislative remedies <sup>was in order.</sup> After all, the British through their "Official Secrets Act" and other related procedures have a better system in this particular field than do we and they are a country that prizes and protects the freedom of the press as do we.

If what I write here helps to start a public discussion and a better public understanding of this whole problem, both the handouts and the leaks, something may be achieved. ~~It~~ I start from the premise that nothing should be attempted which would effect the

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freedom of the press but freedom does not necessarily mean complete license, where our national security is involved and I can hardly believe that the first amendment of the Constitution intended this.

I do not suggest that we try to deal with this phase of the problem of security through legislation, except in the tightening up of some of our espionage laws as I shall explain. ~~But~~ Rather ~~the government~~ <sup>should</sup> put its own house in order ~~by cooperation~~ with the Congress <sup>then</sup> and ~~seeking~~ the voluntary cooperation of the press.

Here is what seems to me to be a possible order of procedure: (1) that the Executive Branch of government, particularly within the Departments of <sup>State and</sup> Defense and the Intelligence community, see what can be done to prevent the unnecessary publication of information that is valuable to our enemies and to deal more effectively with the leaks from the Executive Branch; (2) that in conference with the Congressional leaders and in agreement with them, steps be taken to restrict the publication of sensitive hearings in the field of our national security, particularly in the military field. ~~and~~ After some progress has been made in (1) and (2) above, there should be quiet (hopefully) discussions between selected government officials most immediately concerned and the leaders of the press and other news media, radio, television, technical

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and service journals to determine whether and to what extent there can be mutual agreement for setting up machinery to keep the press confidentially advised as the to ~~what~~ matters, particularly in the field of classified military hardware, ~~future planning and operations, and possibly also of pending international negotiations~~ and sensitive intelligence operations where secrecy is essential to ~~their~~ ~~success~~ our security.

Before doing this, it might well be worthwhile for the interested members of government and of the press to take a look at what has been accomplished in Great Britain through the system of D notices. In suggesting this, I recognize that there are vital differences between the situation here and that in the British Isles, where there is such a large centralization of press and publications in one great city, namely London. There is in this country no comparable center of authority in the matter of press and publicity, and it would be harder here to find any relatively restricted group of men in the field of news media whose judgment would be accepted in all parts of the country. However, it may be at least worth

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a study.

The history of the D notice system has been given in a recent Parliamentary White Paper, Cmd. 1681, of April 1962. This <sup>contains The</sup> ~~system is described in a~~ report of an independent committee appointed by the British government on 11 May 1961 and chaired by the distinguished jurist Lord Radcliffe. This committee was designated to look into recent espionage cases <sup>prosecuted</sup> ~~arising~~ under the Official Secrets Act and to review British security procedures, including the D notice system.

This system is now over fifty years old, having been set up a year after the coming into force of the Official Secrets Act of 1911. The system itself, however, has no formal legal sanction. It is a voluntary arrangement between the government and the representatives of British information media. The procedures under the system have been functioning satisfactorily for over a half of a century, except of course that they cease to operate during periods of wartime censorship.

There are four government representatives on the committee - the permanent heads of the War Office, the Admiralty, the Air Ministry and the Ministry of



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Aviation - and representatives of the various news media. The secretary of the committee since 1945 has been a retired Rear Admiral, G. P. Thomson, who has managed to hold the complete respect of the press over the years. These notices must be approved by all the press members, except that in various urgent cases the secretary is authorized to issue a D notice on his own responsibility with the concurrences of two press members. I gather, however, that if later other press members object to the D notice, it would probably have to be withdrawn although this situation has never arisen. *Since* The emergency powers are only exercised on the rarest occasions where time is of the essence. The range of subjects covered by D notices are military matters, the publication of which would be prejudicial to the national interest, but the press does not insist on a rigid interpretation of this formula, the Radcliffe report indicates, "so long as a clear case of national prejudice of a 'military' matter can be made out". The Radcliffe report further indicates that "there have been cases of non-observance\*\*\* more often accidental than deliberate and they have never

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been persisted in after the secretary has taken the matter up with the responsible editor". By its operation, the Radcliffe report indicates, the British government has succeeded "year in and year out in keeping out of newspapers, radio and television a great deal of material ... which needs to be concealed and which would be useful to other powers to possess... and which so far as we can see could not have been kept out in any other way". The Radcliffe report, in stressing that the D notice procedure "appears to suit the needs of both sides"<sup>added</sup> and that according to the evidence before the committee "neither side wishes to amend the present system"<sup>and</sup> recommended the continuance of the system along the present lines.

As I said above, I think this system would be worthwhile studying to see whether any of its features could usefully be adopted in this country to help deal with our security problem. I would add that this procedure has nothing whatever to do with the case which has been much discussed on both sides of the Atlantic of the British newsmen, a Daily Mail and a Daily Sketch reporter,

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who are serving respectively a six months' and a three months' jail sentence because they refused to tell a tribunal set up by Parliament the sources of stories they had written about William Vassall, the convicted Soviet spy whose case I have discussed in some detail above. There was a third reporter who escaped his jail sentence because his reputed source voluntarily came forward and admitted to being the one who was the origin of the information. There is a suspicion abroad that the two men who are serving the jail sentences would be in some difficulty in producing sources if they wanted to do so because the stories are a figment of the imaginations of the reporters in question and they have no sources to produce. The issue is however opposed - the British government remains adamant and so do the newsmen.

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My final point, point 4 in a program to improve our security posture is that we should review and tighten up our espionage laws in certain respects. Since 1946, on several occasions, various attempts, all abortive, have been made by the Executive Branch of government to amend the Espionage Act so that prosecution would not fail merely because of difficulties in establishing "an intent or reason to believe" that the information wrongly divulged or passed to a foreign government was "to be used to the injury of the United States or to the advantage of a foreign nation". This is hard to prove and the requirement has already been eliminated in cases involving the divulging of what we call restricted data under the Atomic Energy Act and with regard to disclosure of classified information in the field of "communications intelligence". The requirement still holds, however, in cases of divulging other types of secret and classified information. Much

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secret information has been divulged without authorization or even passed to foreign governments where the defense would be made that the culprit was really trying to help our government by helping an ally - as the Soviet Union was for a time after 1941 - or that the real purpose was to help a particular military service of the government, Army, Navy or Air Force as the case might be, whose interests it would be alleged were being harmed by certain government action. There are other problems which arise under our existing legislation in <sup>that</sup> ~~proving~~ <sup>is</sup> each case related to the national defense and security as our present espionage law requires.

The British comparable legislation is based on the theory of privilege, that all official information belongs to the Crown and that those who receive it officially may <sup>lawfully</sup> not divulge it without the authority of the Crown. This

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This theory of government privilege in such matters seems a sound one. Also there are many cases where the court disclosure of all the details of the information passed may be contrary to the public interest, and there are times when <sup>prosecution</sup> ~~publication~~ is rendered difficult and embarrassing by having to divulge publically in court the exact nature of the classified information involved.

Many persons who have been guilty of serious actions affecting our security could not be prosecuted for one or more of the above reasons. The knowledge that this is the case, and this knowledge is quite widespread among those who deal with classified information, has led to the belief that, in effect, it is only <sup>in</sup> the most heinous crimes of espionage that <sup>in</sup> prosecution is likely to be pressed by the government.

In any event, whether all this could be

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accomplished, it is certainly high time for us to look at our espionage legislation as a whole in the light of the dangers we face in dealing with reckless carelessness, as well as the act of espionage itself. If we drive a car in the streets with reckless abandon and with injury to life or property, there is no difficulty in prosecuting; but if our innermost secrets are handled with like carelessness, there is little that can be done about it unless we can prove intent to help a foreign government.

Our security in the world of today is a very precious thing. One important element of it is how we guard our vital secrets, and today this phase of our security is not being given the attention it deserves.